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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09/731,632	11/20/2000	Wanda A. Cromlish	43639.010400 3503	
759	90 10/28/2005		EXAM	INER
Eugene C Rzu			RAO, MAN	UNATH N
Greenberg Traus 885 Third Aven			ART UNIT	PAPER NUMBER
New York, NY 10022		1652		
			DATE MAILED: 10/28/2001	

Please find below and/or attached an Office communication concerning this application or proceeding.

43639

DUE Now. 15 2005 (adv. cory)

1 MO. CALL-UP_

RECEIVED IN DOCKETING GREENBERG TRAURIG LLP

NOV - 2 2005

INTELLECTUAL PROPERTY GROUP

EC 1 5 2005 8)	Application No.	Applicant(s)	
Advisory Action	09/731,632	CROMLISH ET AL.	
Advisory Action Before the Filing of an Appeal Brief	Examiner	Art Unit	
MURMATION	Manjunath N. Rao, Ph.D.	1652	
			255
The MAILING DATE of this communication ap	pears on the cover sheet with the	ON EOR ALLOWANCE	100
HE REPLY FILED 26 September 2005 FAILS TO PLACE	THIS APPLICATION IN CONDITION	on of Appeal To avoid sha	indonment (
. The reply was filed after a final rejection, but prior to of this application, applicant must timely file one of the fo	on the same day as filling a Notice	nt. affidavit. or other evider	ice, which
places the application in condition for allowance: (2) a	Notice of Appeal (with appeal fee) in compliance with 37 Cr	-R 41.31; 0
(3) a Request for Continued Examination (RCE) in cor	inpliance with 37 CFR 1.114. The	reply must be filed within o	one of the
following time periods:			
a) The period for reply expires 3 months from the mailing date	e of the final rejection.		
b) The period for reply expires on: (1) the mailing date of this A	Advisory Action, or (2) the date set forth	in the final rejection, whichever	is later. In no
event, however, will the statutory period for reply expire later Examiner Note: If box 1 is checked, check either box (a) or	THAN SIX MONTHS from the maining of	HE OF THE HIND TO SECTION. HE FIRST REPLY WAS FILED.	WITHIN TW
MONTHS OF THE FINAL REJECTION, See MPEP 706.0)7(t).		
total signs of time may be obtained under 37 CFR 1 136(a). The date	on which the petition under 37 CFR 1.1	36(a) and the appropriate exten	sion fee have
see find in the date for nurneess of determining the period of extension	on and the corresponding amount of the	tee. The appropriate extension	i lee under 37
FR 1.17(a) is calculated from: (1) the expiration date of the shortened bove, if checked. Any reply received by the Office later than three mo	i statutory period for reply originally set ii oths after the mailing date of the final re	iection, even if timely filed, may	reduce any
arned patent term adjustment. See 37 CFR 1.704(b).	indicates and manifestation and an area	,	-
IOTICE OF APPEAL			
The Notice of Appeal was filed on A brief in co	ompliance with 37 CFR 41.37 mus	st be filed within two month	ns of the da
of filing the Notice of Appeal (37 CFR 41.37(a)), or an	v extension thereof (37 CFR 41.3	/(e)), to avoid dismissal of	ine appeai
Since a Notice of Appeal has been filed, any reply mu-	st be filed within the time period s	et forth in 37 CFR 41.37(a).
AMENDMENTS			
3. X The proposed amendment(s) filed after a final rejection	on, but prior to the date of filing a	brief, will not be entered b	ecause
(a) They raise new issues that would require further	consideration and/or search (see	NO E Delow);	
(b) They raise the issue of new matter (see NOTE b	below);	lly roducing or simplifying	the issues f
(c) They are not deemed to place the application in	better form for appear by materia	ily reducing or simplifying	inc issues i
appeal; and/or (d)☐ They present additional claims without canceling	a a corresponding number of final	ly rejected claims.	
NOTE: See Continuation Sheet. (See 37 CFR	1 116 and 41 33(a)).	, ,	
The amendments are not in compliance with 37 CFR	1 121 See attached Notice of No	n-Compliant Amendment	(PTOL-324
5. Applicant's reply has overcome the following rejection			`
Newly proposed or amended claim(s) would be	ne allowable if submitted in a sepa	rate, timely filed amendme	ent cancelir
the non-allowable claim(s).	c anomabio ii dabiiii.ca iii a capa		
7. For purposes of appeal, the proposed amendment(s):	a) 🔲 will not be entered, or b) [will be entered and an e	explanation
how the new or amended claims would be rejected is	provided below or appended.		
The status of the claim(s) is (or will be) as follows:			
Claim(s) allowed:			
Claim(s) objected to:			
Claim(s) rejected: Claim(s) withdrawn from consideration:			
AFFIDAVIT OR OTHER EVIDENCE			
R The affidavit or other evidence filed after a final action	n, but before or on the date of filin	g a Notice of Appeal will n	ot be entere
because applicant failed to provide a showing of good	d and sufficient reasons why the a	ffidavit or other evidence is	s necessary
and was not earlier presented. See 37 CFR 1.116(e).			
The affidavit or other evidence filed after the date of f	iling a Notice of Appeal, but prior	to the date of filing a brief,	will not be
entered because the affidavit or other evidence failed	to overcome all rejections under	appeal and/or appellant fai	iis to provia
showing a good and sufficient reasons why it is neces	ssary and was not earlier presente	ea. See 37 CFR 41.33(d)(1).
•			
 The affidavit or other evidence is entered. An explan 	nation of the status of the claims a	itter entry is below or attac	nea.
10. ☐ The affidavit or other evidence is entered. An explain REQUEST FOR RECONSIDERATION/OTHER 11. ☐ The request for reconsideration has been considered			

U.S. Patent and Trademark Office PTOL-303 (Rev. 7-05)

13. Other: ____.

12. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).

Manjunath N. Rao, Ph.D. Primary Examiner Art Unit: 1652

Application No.

Continuation Sheet (PTOL-303)

Continuation of 3. NOTE: The amendments filed for specification (figures) as well as for claims are not in accord with Rule 1.173(b)(3) and therefore cannot be entered or considered. Applicant is advised to refile the amendments according to Rule 1.173(b)(3).



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09/731,632	11/20/2000	Wanda A. Cromlish	43639.010400	3503
75	90 12/07/2005		EXAM	INER
Eugene C Rzucidlo Esq		RAO, MANJUNATH N		
Greenberg Trau 885 Third Aven			ART UNIT	PAPER NUMBER
New York, NY	New York, NY 10022		1652	
			DATE MAILED: 12/07/2005	5

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
09/731,632	CROMLISH ET AL.		
Examiner	Art Unit		
Manjunath N. Rao, Ph.D.	1652		

	LKG((iiii))	rat Ome	
	Manjunath N. Rao, Ph.D.	1652	
The MAILING DATE of this communication appe	ars on the cover sheet with the c	correspondence add	ress
THE REPLY FILED 08 November 2005 FAILS TO PLACE THI	S APPLICATION IN CONDITION F	OR ALLOWANCE.	
 The reply was filed after a final rejection, but prior to or of this application, applicant must timely file one of the following places the application in condition for allowance; (2) a Normal Request for Continued Examination (RCE) in comparison of time periods: 	n the same day as filing a Notice of owing replies: (1) an amendment, a otice of Appeal (with appeal fee) in liance with 37 CFR 1.114. The rep	f Appeal. To avoid at ffidavit, or other evid compliance with 37 (ence, which CFR 41.31; or
 a) The period for reply expires 4 months from the mailing date of b) The period for reply expires on: (1) the mailing date of this Advevent, however, will the statutory period for reply expire later the 	risory Action, or (2) the date set forth in th	e final rejection, whichev f the final rejection.	er is later. In no
Examiner Note: If box 1 is checked, check either box (a) or (b) MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f	, ONLY CHECK BOX (b) WHEN THE FI).	RST REPLY WAS FILE	
Extensions of time may be obtained under 37 CFR 1.136(a). The date on been filed is the date for purposes of determining the period of extension a CFR 1.17(a) is calculated from: (1) the expiration date of the shortened st above, if checked. Any reply received by the Office later than three month earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL	which the petition under 37 CFR 1.136(a and the corresponding amount of the fee. atutory period for reply originally set in the	The appropriate extension final Office action; or (2)	on fee under 37 as set forth in (b)
2. The Notice of Appeal was filed on A brief in com of filing the Notice of Appeal (37 CFR 41.37(a)), or any e Since a Notice of Appeal has been filed, any reply must	extension thereof (37 CFR 41.37(e)), to avoid dismissal	of the appeal.
AMENDMENTS 3. The proposed amendment(s) filed after a final rejection, (a) They raise new issues that would require further co (b) They raise the issue of new matter (see NOTE below	onsideration and/or search (see NC		because
(c) They are not deemed to place the application in be appeal; and/or	tter form for appeal by materially re		the issues for
(d) ☐ They present additional claims without canceling a NOTE: see attached. (See 37 CFR 1.116 and 41		ejected cialms.	
4. The amendments are not in compliance with 37 CFR 1.	, ,,	ompliant Amendmen	l (PTOL-324)
5. Applicant's reply has overcome the following rejection(s		orripriality arrorration	. (1 1 0 2 0 2 1).
6. Newly proposed or amended claim(s) would be a the non-allowable claim(s).		, timely filed amendn	nent canceling
7. For purposes of appeal, the proposed amendment(s): a) how the new or amended claims would be rejected is proof The status of the claim(s) is (or will be) as follows:		vill be entered and an	explanation of
Claim(s) allowed: <u>1-7,11-15,19 and 22-27</u> . Claim(s) objected to: Claim(s) rejected: <u>9 and 10</u> .			
Claim(s) withdrawn from consideration:			
AFFIDAVIT OR OTHER EVIDENCE			
 The affidavit or other evidence filed after a final action, because applicant failed to provide a showing of good at and was not earlier presented. See 37 CFR 1.116(e). 			
The affidavit or other evidence filed after the date of filing entered because the affidavit or other evidence failed to showing a good and sufficient reasons why it is necessary.	overcome <u>all</u> rejections under apperry and was not earlier presented.	al and/or appellant fa See 37 CFR 41.33(d)	ails to provide a (1).
10. The affidavit or other evidence is entered. An explanation REQUEST FOR RECONSIDERATION/OTHER	on of the status of the claims after	entry is below or atta	ched.
11. The request for reconsideration has been considered by	ut does NOT place the application	in condition for allowa	ance because:
12. Note the attached Information Disclosure Statement(s) 13. Other:	. (PTO/SB/08 or PTO-1449) Paper	No(s)	
		Manjunath N. Rao, Primary Examiner Art Unit: 1652	Ph.D.

Application/Control Number: 09/731,632

Art Unit: 1652

Advisory Action

Claims 1-7, 9-15, 19, 22-27 are now currently pending in this application.

Applicant's request for reconsideration filed on 11-8-05 has been considered but <u>NOT ENTERED</u>, as it raises new issues and requires the Examiner to institute new rejections. The amendment has not been entered for the following reasons;

In response to the Final rejection mailed on 7-15-05, in which claims 9-10 were rejected and claims 1-7, 11-15, 19, 22-27 were indicated as allowable, Applicants filed an amendment canceling claims 9-10 and requesting allowance of claims 1-7, 11-15, 19, 22-27. However, the amendment was found defective specifically for not following Rules under 1.173(b)(3). On October 28, 2005, Applicant was advised through an Advisory Action as well as through the telephone to re-submit properly made claim and figure amendments for further consideration.

In response to the above the Advisory Action mailed on October 28, 2005, applicant has filed the instant response. However, in the instant response applicant has amended claims in such a fashion that it raises new issues and requires the Examiner to make new rejections. First, applicant has deleted the word "adding" in claims 1, 3, 6, 7, and 11 because of which the claim makes no scientific sense. Second applicant has reinstated claims 9 and 10 that were rejected in the final rejection and indicated as cancelled in the previous amendment. If claims 9-10 remain on record, it requires the Examiner to reinstate the rejection. Therefore, the instant amendment has not been entered.

Furthermore, Examiner suggests again that claims 19 and 22 should be amended to recite the phrase "An isolated". Examiner also suggests deletion of the term "human" in claims 22-25.

Page 3

Application/Control Number: 09/731,632

Art Unit: 1652

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Manjunath N. Rao, Ph.D. whose telephone number is 571-272-0939. The Examiner can normally be reached on 7.00 a.m. to 3.30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Ponnathapura Achutamurthy can be reached on 571-272-0928. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300 for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

Manjunath N. Rao, Ph.D.

Primary Examiner Art Unit 1652

December 5, 2005

CERTIFICATION

I, Debra A. Bollwage, Senior Assistant Secretary of Merck & Co., Inc. (the "Company"), a corporation duly organized and existing under the laws of the State of New Jersey, do hereby certify that the attached, presently in full force and effect, is a true and correct copy of General Corporate Resolution #5, Patent Matters, as amended by the Board of Directors of said Company at a meeting duly called and held on May 24, 2005.

IN WITNESS WHEREOF, I have hereunto subscribed my signature and affixed the seal of the Company this 27th day of June 2005.

Senior Assistant Secretary

(SEAL)